

JPA 83-08

CONTRACT	
NO.	01-04-A-104399-0983
AMENDMENT NO.	
This number shall appear on all invoices, correspondence, and documents pertaining to this contract.	

INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
STATE OF ARIZONA  
AND  
PIMA COUNTY

PROJECT NO. IXM 508-4 (4) Alvernon Way  
IXM 508-4 (5) Alvernon Way  
IR 10-5 (55) Tucson-Benson Highway  
AFE  
FUND CODES: 8536K, 8539K and 82512

THIS AGREEMENT, entered into this 7th day of October, 1983, pursuant to Arizona Revised Statutes, Section 11-951 through 11-954, as amended, by and between the STATE OF ARIZONA, acting by and through the ARIZONA DEPARTMENT OF TRANSPORTATION, hereinafter called "STATE" and PIMA COUNTY, a body politic and corporate, hereinafter called "LOCAL AGENCY".

WHEREAS, STATE is empowered by Arizona Revised Statutes, Section 28-108 to enter into this Agreement, and

WHEREAS, LOCAL AGENCY is empowered by Arizona Revised Statutes, Section 11-951 through 11-954 to enter into this Agreement, and

WHEREAS, Congress has authorized appropriations for, but not limited to, the construction of streets; primary, feeder and farm to market roads; the replacement of bridges; the elimination of roadside obstacles; the application of pavement markings, and

WHEREAS, such project within the boundary of LOCAL AGENCY has been selected by LOCAL AGENCY and the field survey of the project has been completed and the plans, estimates and specifications prepared and, as required, submitted to the Federal Highway Administration for its approval, and

WHEREAS, LOCAL AGENCY, in order to obtain Federal funds for the construction of the project hereinafter mentioned, is willing to provide the STATE with LOCAL AGENCY funds to match Federal funds in the ratio required or as finally fixed and determined by the Federal Highway Administration, and

WHEREAS, the primary interest of the STATE in the project is in the acquisition of Federal funds for the use and benefit of LOCAL AGENCY by reason of Federal Law and Regulations under which funds for the project are authorized to be expended, and

NO. <u>8879</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>10-11-83</u>
<u>[Signature]</u> Secretary of State

WHEREAS, the work embraced in this Agreement and the estimated cost is as follows: Reconstruct Alvernon Way from Valencia Road to Aviation Way and add an interchange at Interstate Route 10.

	IXM 508-4 (4)	IXM 508-4 (5)	IR 10-5 (55)
Estimated Cost	\$4,360,000.00	9,110,000.00	4,083,000.00
Federal Funds @ 94.30%			3,850,269.00
Federal Funds @ 85.00%	3,706,000.00	7,743,500.00	
Pima County Funds *	741,300.00	1,548,700.00	214,301.00

AGREEMENT:

\* Omc;ides 2% surcharge on total estimate per memo from J. B. Hertz 2-2-82.

ARTICLE I

IN CONSIDERATION of the covenants of LOCAL AGENCY hereinafter contained and the faithful performance thereof, STATE agrees:

1. To submit a program containing the aforementioned project to the Federal Highway Administration with the recommendation that it be approved for construction and that if such project is approved for construction by the Federal Highway Administration and the funds are available for the construction of said project, STATE, with the aid and consent of the Federal Highway Administration will proceed to advertise for, receive and open bids, and subject to the concurrence of the Federal Highway Administration and LOCAL AGENCY, award the contract, enter into a contract with the firm to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Standard Specifications for Road and Bridge Construction of the Highways Division, Arizona Department of Transportation, will enter into a Project Agreement with the Federal Government covering the work embraced in the said contract or in the said Agreement and will request the maximum Federal funds available.

2. To furnish LOCAL AGENCY with copies of the proposed Project Agreement to be entered into by the STATE and the Federal Government and any Railroad Company Agreement necessary for the full completion of this project.

3. To provide personnel to supervise the construction, such personnel to be acceptable to LOCAL AGENCY.

ARTICLE II

IN CONSIDERATION of the covenants of STATE hereinbefore contained and the faithful performance thereof, LOCAL AGENCY agrees:

1. To acquire without cost to STATE, the necessary right-of-way and material sites and hereby certifies that all rights-of-way have been obtained and all necessary material sites have been acquired.

2. To remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the roadway, and hereby certifies that all obstructions and encroachments have been removed therefrom.

3. Not to permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right-of-way, and in the event of any unauthorized encroachment or improper use, shall take all necessary steps to remove or prevent any such encroachment or use; failing in which STATE shall have the right to proceed with the removal or prevention thereof, the cost of such removal or prevention to be borne by LOCAL AGENCY.

4. Upon completion of construction, to provide for at its own cost and as an annual item in its budget, proper maintenance; such maintenance to include, but not be limited to, traffic signals, signs, islands, curbs and markings necessary for the purpose of regulating, warning, and guiding traffic.

5. To mark and sign school crossings and railway-highway grade crossings in accordance with the requirements of the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways.

6. By such regulation as it may by ordinance provide, to regulate parking and not permit vehicles to be left on the street in any manner other than at the curb and parallel thereto and to restrict parking so as to prevent conflicts with moving traffic at intersections and at such other locations as necessary.

7. To deposit with STATE, prior to the solicitation of bids, funds in the amount determined by STATE to be necessary to match Federal funds in the ratio required.

#### ARTICLE III

IN CONSIDERATION of the premises, it is mutually agreed:

1. That any part of the sum of the amount deposited by LOCAL AGENCY, as stipulated in ARTICLE II, remaining after LOCAL AGENCY'S pro rata share of the cost, as finally fixed and determined by the Federal Government, has been paid, shall be forthwith returned to LOCAL AGENCY by STATE;

2. That upon approval of the terms and conditions of the Project Agreement and any State-Railroad Company Agreement by any LOCAL AGENCY, the agreements shall be incorporated in and made a part of this Agreement by reference and shall have the same force and effect as though fully written herein; and further, that the LOCAL AGENCY is bound by all the terms of any State-Railroad Company Agreement and will reimburse the STATE for the amount contracted for by and between the Railroad Company and STATE acting as agent for LOCAL AGENCY.

3. That, should some unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for herein, STATE shall not be obligated to incur any expenditure in excess of the amount of LOCAL AGENCY'S deposit unless and until so authorized in writing by LOCAL AGENCY;

4. That STATE assumes no financial obligation hereunder; that LOCAL AGENCY assumes full responsibility for the design, plans, specifications, engineering and construction. The STATE assumes responsibility for the active negligence of STATE personnel assigned to the project during construction, while actually engaged in the performance of their duties. Except for the negligence of the STATE personnel as set out above, the LOCAL AGENCY agrees to indemnify and save harmless the STATE, any of its departments, agencies, officers and employees from any and all liability, loss or damage the STATE may suffer as a result of claims, demands, costs or judgments arising out of the negligent performance or nonperformance of LOCAL AGENCY or its independent contractors in carrying out any provisions of this Agreement. Costs incurred by STATE, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation or attorneys' fees.

5. That the cost of the work covered by this Agreement is to be borne by the Federal Government and LOCAL AGENCY, each in the proportion prescribed or as fixed and determined by the Federal Government, through the Federal Highway Administration as stipulated herein; therefore LOCAL AGENCY agrees to furnish and provide STATE with LOCAL AGENCY funds in an amount equal to the difference between the total cost of the work herein provided for and the amount of Federal Aid received;

6. That arbitration will be used pursuant to A.R.S. 12-1513 if the entire relief in controversy is money in an amount less than One Hundred Thousand Dollars (\$100,000).

7. This Agreement, except the provisions herein for maintenance, which shall be perpetual, shall terminate upon completion of the work herein embraced in accordance with the terms of this Agreement or may be terminated at any time prior to the awarding of the construction contract by either party upon thirty (30) days written notice of that intent;

8. That this Agreement shall be filed with the office of the Secretary of State and shall become effective at the date of such filing.

9. That this Agreement is subject to cancellation by the Governor pursuant to Arizona Revised Statutes 38-511, the provisions of which are incorporated herein by reference.

Attached hereto is an authenticated copy of the resolution of the STATE and also attached hereto is an authenticated copy of the resolution of the governing body authorizing LOCAL AGENCY to enter into this Agreement and a copy of the written determination of the legal counsel of LOCAL AGENCY that this Agreement is in proper form and within the powers and authority granted to LOCAL AGENCY under the laws of this STATE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

STATE OF ARIZONA

By: STATE ENGINEER

By: [Signature]  
Chief Deputy State Engineer

ATTEST:

STATE OF ARIZONA )  
 ) ss.  
COUNTY OF MARICOPA )

On this the 7 day of October, 1983, before me, Jeanette Sutter, the undersigned Notary Public, personally appeared W. J. [Signature], Chief Deputy State Engineer, Arizona Department of Transportation, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Jeanette Sutter  
NOTARY PUBLIC

My Commission expires:  
My Commission Expires Nov. 19, 1984

PIMA COUNTY DEPARTMENT OF TRANSPORTATION

By: Pima County Board of Supervisors  
Governing Body

By: [Signature]  
Chairman

Title:

ATTEST:

Eugenia [Signature]  
Clerk, Board of Supervisors  
STATE OF ARIZONA )  
 ) ss.  
COUNTY OF PIMA )

On this the 6<sup>th</sup> day of September, 1983, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, of the \_\_\_\_\_, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Eugenia [Signature]  
NOTARY PUBLIC

My Commission expires:

My Commission Expires June 7, 1987


DEPARTMENT OF TRANSPORTATION AND FLOOD CONTROL DISTRICT:

By: C. [Signature]  
Director

8-9-83

R E S O L U T I O N

Be it resolved on this, the 12th day of September, 1983, that I,  
W. A. ORDWAY, as the Director, Arizona Department of Transportation,  
have determined that pursuant to A.R.S. 28-108, it is in the best  
interests of the State of Arizona that the Department of Transporta-  
tion, acting by and through its Highways Division, enter into an  
intergovernmental agreement with the COUNTY OF PIMA for  
Project IXM 508-4 (4), IXM 508-4 (5) and IR 10-5 (55), Alvernon Way Projects.

  
W. A. ORDWAY, Director  
Arizona Department of Transportation

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS  
AUTHORIZING THE CHAIRMAN TO EXECUTE AN AGREEMENT WITH  
THE ARIZONA DEPARTMENT OF TRANSPORTATION WHICH AGREEMENT  
PROVIDES FOR THE CONSTRUCTION, MAINTENANCE AND FINANCING  
OF THE ALVERNON WAY-(Valencia Road-Jct. I-10), IXM 508-4(4);  
ALVERNON WAY-(Jct. I-10 to Aviation Way), IXM 508-4 (5); TUCSON-  
BENSON HIGHWAY (I-10 to Alvernon Way), IR 10-5 (55).

WHEREAS, Congress has authorized appropriations for, but not limited  
to, the construction of street; primary, feeder and farm to market roads; the  
replacement of bridges; the elimination of roadside obstacles; the application  
of pavement markings, and

WHEREAS, such project within the boundary of PIMA COUNTY has been selected  
by PIMA COUNTY and the field survey of the project has been completed and the  
plans, estimates and specifications prepared and, as required, submitted to the  
Federal Highway Administration for its approval, and

WHEREAS, PIMA COUNTY, in order to obtain federal funds for the construction  
of the project hereinafter mentioned, is willing to provide the STATE with PIMA  
COUNTY funds to match federal funds in the ratio required or as finally fixed and  
determined by the Federal Highway Administration, and

WHEREAS, the primary interest of the STATE in the project is in the  
acquisition of federal funds for the use and benefit of PIMA COUNTY by reason  
of Federal law and regulations under which funds for the project are authorized  
to be expended.

NOW, THEREFORE, UPON MOTION DULY MADE, SECONDED AND CARRIED, BE IT  
RESOLVED AS FOLLOWS:

That PIMA COUNTY enter into an agreement with the Arizona Department of  
Transportation, which agreement shall provide for the construction, maintenance  
and financing of Alvernon Way (Valencia Road-Jct. I-10), IXM 508-4 (4); Alvernon  
Way-(Jct. I-10 to Aviation Way), IXM-508-4(5); Tucson-Benson Highway (I-10 to  
Alvernon Way), IR 10-5 (55), and

That the Chairman of the Pima County Board of Supervisors be and is  
hereby authorized and directed to execute the attached contract, a copy of which  
is attached hereto, with the Arizona Department of Transportation.

PASSED AND ADOPTED AND APPROVED by the Pima County Board of Supervisors  
this 6th day of Sept, 1983.

PIMA COUNTY BOARD OF SUPERVISORS

By

Sam Leone  
Chairman

ATTEST

By

Eugenia A. Walters  
Clerk of the Board

APPROVED AS TO FORM:

By

John R. Neubauer  
Deputy County Attorney



DETERMINATION

I have reviewed the proposed Agreement between the State of Arizona and Pima County, Arizona, which agreement provides for the construction, maintenance, and financing of the Alvernon Way (Valencia Road-Jct. I-10) IXM 508-4 (4); Alvernon Way. (Jct. I-10 to Aviation Way) IXM 508-4 (5); Tucson-Benson Highway (I-10 to Alvernon Way), IR 10-5 (55).

I have determined that the said proposed Agreement is in the proper form and is within the powers and authority granted to Pima County and its agencies under the laws of the State of Arizona .

Dated this 8<sup>TH</sup> day of August, 1983.

STEPHEN D. NEELY  
Pima County Attorney

By John R. Neubauer  
Deputy County Attorney



OFFICE OF THE  
Attorney General  
TRANSPORTATION DIVISION  
1275 WEST WASHINGTON  
PHOENIX, ARIZONA 85007  
(602) 255-1580

ROBERT K. CORBIN  
ATTORNEY GENERAL

INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A. G. Contract No. 83-556, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. Sec. 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State or its agencies under the laws of the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 23 day of September, 198<sup>3</sup>7.

ROBERT K. CORBIN  
Attorney General

*Jae Acosta, Jr.*  
Assistant Attorney General  
Transportation Division